

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Diana Bratlie,

Complainant,

vs.

Meri Nielsen, Treasurer,
Citizens Vote Yes,

Respondent.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

TO: Diana Bratlie, 16829 Jackpine Way, Lakeville, MN 55044; and Meri Nielsen, Treasurer, Citizens Vote Yes, 11247 Kenworth Lane, Lakeville, MN 55044.

On November 15, 2007, Diana Bratlie filed a Complaint with the Office of Administrative Hearings alleging that Meri Nielsen, as Treasurer of the Citizens Vote Yes committee, violated Minnesota Statutes § 211A.02, subd. 2 by failing to file accurate or complete campaign financial reports.¹ After reviewing the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint sets forth prima facie violations of Minnesota Statutes § 211A.02, subd. 2(5) with respect to the claim that Ms. Nielsen failed to identify on the campaign financial reports the individuals and committees that made contributions of \$100 or more to Citizens Vote Yes. This determination is described in more detail in the attached Memorandum.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a prehearing conference and evidentiary hearing to be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the prehearing conference and evidentiary hearing, and the three judges assigned to it, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

¹ Ms. Bratlie requested an expedited probable cause hearing. However, an expedited probable cause hearing is not required for complaints filed after the election at issue. Instead, this matter will be set on for a prehearing conference and evidentiary hearing to be held within 90 days after the complaint was filed. (See, Minn. Stat. § 211B.33 and 211B.35).

At the evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 600 North Robert Street, P.O. Box 64620, St. Paul, MN 55101, or call 651-361-7900 (voice) or 651-361-7878 (TTY).

Dated: November 16, 2007

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

MEMORANDUM

Pursuant to Minnesota Statutes § 211A.02, subd. 1, committees acting to promote or defeat a ballot question that receive contributions or make disbursements of over \$750 in a calendar year, must file financial reports with the appropriate "filing officer."² The reports filed by a candidate or committee must include the total amount of receipts and expenditures for each time period covered, as well as the name, address, and employer (or occupation if self-employed) of any individual or committee that has made contributions of \$100 or greater during the year.³

This Complaint concerns Independent School District (ISD) 194's school levy election that took place on November 6, 2007. Meri Nielsen is the treasurer of "Citizens

² Minn. Stat. § 211A.01, subd. 7, defines "filing officer" to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

³ Minn. Stat. § 211A.02, subd. 2(5) (2006).

Vote Yes,” a committee that supported the levy initiatives. The Complaint alleges that Ms. Nielsen, as Treasurer of Citizens Vote Yes, failed to file accurate and complete financial reports as required by Minn. Stat. § 211A.02, subd. 2. According to documents submitted with the Complaint, Ms. Nielsen filed campaign financial reports on behalf of the Citizens Vote Yes committee on August 7, 2007, and October 26, 2007. The August report covers the period from July 26 to August 7, 2007. In this report, Ms. Nielsen indicated that the committee received \$2,475 in cash contributions. The October report covers the period from August 8 to October 26, 2007. In this report, Ms. Nielsen indicated that the committee received \$19,633 in cash contributions. Neither report includes the name, address, and employer information of individuals or committees that contributed \$100 or more. However, campaign financial reports filed by Education Minnesota indicate that it contributed \$4,500 in cash to the Citizens Vote Yes committee on September 5, 2007, and made in-kind contributions to the committee on various dates in September and October valued at \$925.89. The Complainant alleges that in addition to Education Minnesota, other individuals or committees made contributions of \$100 or more to Citizens Vote Yes, and contends that Ms. Nielsen’s failure to identify these contributors violated Minn. Stat. § 211A.02, subd. 2(5).

For purposes of the prima facie determination, the facts alleged in the Complaint are assumed to be true unless they are patently false or inherently incredible. Given this standard, the Administrative Law Judge finds that the Complaint has alleged prima facie violations of Minn. Stat. § 211A.02, subd. 2(5) with respect to Ms. Nielsen’s alleged failure to provide accurate and complete information regarding the identity of individuals and committees that contributed \$100 or more to Citizens Vote Yes during the year. This allegation will proceed to a prehearing conference and evidentiary hearing to be scheduled in the near future.

B.L.N.